

## PROPOSED CHANGES TO CONTRIBUTION LIMITS FOR CANDIDATES

### 21-A § 1015. Limitations on contributions and expenditures

★ **1. ~~Individuals~~ Contributions to party candidates.** An individual, political committee, political action committee, other committee, firm, partnership, corporation, association or other form of organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every two years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

*§ 1015 imposes a maximum amount that donors may give to candidates per election. § 1015(1) relates to donors who are individuals and § 1015(2) relates to PACs, political committees, and other associations. Since a citizen's initiative in 1996, the same limits have applied to all types of donors. In the interest of simplifying the statute, the Commission staff proposes deleting subsection 2 and making subsection 1 refer to all types of donors.*

★ **2. ~~Committees; corporations; associations.~~** A ~~political committee, political action committee, other committee, firm, partnership, corporation, association or organization~~ may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every two years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.


★ **2-A. Contributions to unenrolled candidates.** An unenrolled candidate who is seeking nomination by petition pursuant to chapter 5, subchapter 2 of this title will be deemed to have a primary election at the same time as any opposing party candidate in that election cycle for purposes of the limitations in subsection 1.

*In July 2013, four contributors to Eliot Cutler’s campaign filed suit in federal court, challenging the constitutionality of Maine’s contribution limits both facially and as applied to supporters of Mr. Cutler. (Woodhouse, et al. v. Maine Commission on Governmental Ethics and Election Practices, et al., Docket No. 1:14-cv-266-DBH) All four of the plaintiffs had given \$1,500 to Mr. Cutler’s campaign prior to the June 10, 2014 primary election, and sought to give an additional \$1,500 for the election cycle. In August 2014, the U.S. District Court for the District of Maine granted plaintiffs’ motion for preliminary injunction on the sole grounds that the plaintiffs had shown a strong likelihood of success of demonstrating that the \$1,500 per donor per election limit as applied to them violated the Equal Protection Clause of the U.S. Constitution.*

*The Commission staff proposes that if an unenrolled candidate is running against party candidates who were on the ballot in two separate elections (primary and general), the unenrolled candidate would have two contribution limits – similar to the party candidates.*

*The advantage of the proposal is that it is simple and that it is analogous to the federal law that applies to congressional candidates. One potential policy objection to this proposal is that, theoretically, an unenrolled candidate could stockpile contributions during the primary period, while party candidates would need to exhaust their primary election contributions in order to win their primary election.*

*If you would like to consider some other options, the Commission staff will present them to you briefly in writing at or before the November 24, 2014 meeting. You have the option of inviting comment on this proposal and considering it at your December 22, 2014 meeting, if you would like. You may wish to submit this proposal as a separate bill.*

 **~~3. Aggregate contributions.~~** ~~No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate’s spouse or domestic partner.~~

*This subsection has imposed a \$25,000 “aggregate limit” on the total amount that an individual donor may give to all Maine state candidates in a calendar year. A similar federal law was ruled unconstitutional in McCutcheon v. Federal Election Commission, and one advocacy group sent correspondence to the Commission warning of the potential for similar litigation. The Commission staff proposes deleting this subsection from the Election Law.*

**4. Political committees; intermediaries.** For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate’s behalf are considered to be contributions made to that candidate. If the campaign activities of a political action committee within a calendar year primarily promote or support the nomination or election of a single candidate, contributions to the committee that were solicited by the candidate are considered to be

contributions made to the candidate for purposes of the limitations in this section. For purposes of this subsection, solicitation of contributions includes but is not limited to the candidate's appearing at a fundraising event organized by or on behalf of the political action committee or suggesting that a donor make a contribution to that committee.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

**5. Other contributions and expenditures.** Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

**6. Prohibited expenditures.** A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

**7. Voluntary limitations on political expenditures.** A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

**8. Political expenditure limitation amounts.** Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

- A. For State Senator, \$25,000; and
- B. For State Representative, \$5,000.
- C. (REPEALED)

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

**9. Publication of list.** The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.